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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEWIS, ADAM M

ART UNIT PAPER NUMBER

2174

DATE MAILED: 04/20/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/784,808

Applicant(s)

ORBANES ET AL. 

Examiner

Adam M. Lewis

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is responsive to Amendment A, filed 03/11/2004.
2. Claims 1-23 are pending in this application. Claims 1, 6, and 16 are independent claims. In Amendment A, claim 12 was cancelled, claims 1, 9, 10, and 13-16 were amended. This action is made final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

4. Claims 1-6, 9-14, and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell ("Driskell", US# 5,596,699) in view of Jenq ("Jenq", US# 5,081,592).

As per independent claim 1, Driskell teaches a method of receiving user input, the method comprising,

receiving user input identifying a location on a graphical user interface (Driskell, col. 2, lines 66-67; col. 3, line 1),

displaying a first plurality of menu options, a first one of the plurality of menu options appearing substantially at the identified location and the remaining menu options appearing at locations proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-32), and

receiving user selection of one of the displayed menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32).

Driskell fails to teach the amended limitation of displaying a second plurality of menu options at substantially the identified location to replace the first plurality of menu options upon activating one of the remaining menu options.

However, Jenq teaches menu options that when activated replace the main menu (Jenq, col. 6, lines 6-60). It would have been obvious to one skilled in the art at the time of invention to include the menu replacement of Jenq in the radial menu system of Driskell because it would reduce the amount of screen real estate used by the menu system.

As per claim 2, which is dependent on claim 1, Driskell further teaches the method of claim 1, wherein the remaining menu options appear at locations equidistant from the identified location (Driskell, col. 4, lines 14-24).

Dependent claims 14 and 17 are similar to dependent claim 2, and are therefore rejected under similar rationale.

As per claim 3, which is dependent on claim 1, Driskell further teaches the method of claim 1, wherein receiving user input identifying a location comprises determining the location of cursor (Inherent in computer systems that use input devices such as mice; Inherent in Driskell, col. 9, lines 7-13).

As per claim 4, which is dependent on claim 1, Driskell further teaches the method of claim 1, wherein the remaining menu options appear at regular radial intervals around the identified location (Driskell, col. 4, lines 14-24).

Dependent claim 19 is similar to dependent claim 4, and is therefore rejected under similar rationale.

As per claim 5, which is dependent on claim 1, Driskell further teaches the method of claim 1, further comprising,

providing hierarchical levels of menu options (Driskell, col. 9, lines 3-13; col. 42, lines 20-24), and

wherein receiving user selection of at least one of the menu options causes display of menu options at a different hierarchical level (Driskell, col. 9, lines 3-13; col. 42, lines 20-24).

As per claim 6, which is dependent on claim 1, Driskell further teaches the method of claim 5, wherein the menu option located substantially at the identified location comprises a menu option that causes display of menu options at a hierarchical level higher than the current level (Driskell, Figures 6 and 7; col. 5, lines 34-36; col. 9, lines 7-12).

As per independent claim 9, Driskell teaches a method of receiving user input, the method comprising,

providing hierarchical levels of menu options (Driskell, col. 9, lines 3-13; col. 42, lines 20-24),

receiving user input identifying a location on a graphical user interface, the user input comprising a location cursor (Inherent in computer systems that use input devices such as mice; Inherent in Driskell, col. 9, lines 7-13),

displaying a first plurality of menu options from one hierarchical level, a first one of the plurality of menu options appearing substantially at the identified location, the remaining menu options appearing at locations proximate to the identified location and

being positioned at regular radial intervals around the identified location, the first menu option located substantially at the identified location comprising a menu option that when activated causes a display of menu options at a hierarchical level one level higher than the current level at substantially the identified location to replace the first plurality of menu options (Driskell, Figures 6 and 7; col. 8, lines 22-34; col. 4, lines 14-24),

receiving user selection of one of the displayed menu options (Inherent in Driskell, Figures 6 and 7; col. 8, lines 22-34).

Driskell fails to teach the amended limitation of displaying menu options at a hierarchical level one level lower than the current level at substantially the identified location to replace the first plurality of menu options upon activating one of the remaining menu options.

However, Jenq teaches menu options that when activated replace the main menu (Jenq, col. 6, lines 6-60). It would have been obvious to one skilled in the art at the time of invention to include the menu replacement of Jenq in the radial menu system of Driskell because it would reduce the amount of screen real estate used by the menu system.

As per claim 10, which is dependent on claim 9, Driskell further teaches the method of claim 9, wherein the remaining menu options appear at locations equidistant from the identified location (Driskell, col. 4, lines 14-24).

As per claim 11, which is dependent on claim 9, Driskell further teaches the method of claim 9, wherein selecting one of said remaining menu options activates a predetermined function (Driskell, Figure 7-A: L1-E; col. 8, lines 52-57).

As per claim 13, which is dependent on claim 9, Driskell further teaches the method of claim 12, wherein the display of menu options at a hierarchical level one level lower than the level of said selected option comprises the display of one or more suboptions of said selected option, said suboptions being located proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-34).

As per independent claim 16, Driskell teaches a computer program, recorded on a computer-readable medium, for receiving user input, the program including instructions for causing a processor to,

receive user input identifying a location on a graphical user interface (Driskell, col. 2, lines 66-67; col. 3, line 1),

display a first plurality of menu options, a first one of the plurality of menu options appearing about the identified location and the remaining menu options appearing at locations proximate to the identified location (Driskell, Figures 6 and 7; col. 8, lines 22-32),

receive user selection of one of the displayed menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32).

Driskell fails to teach the amended limitation of display a second plurality of menu options at substantially the identified location to replace the first plurality of menu options upon activating one of the remaining menu options.

However, Jenq teaches menu options that when activated replace the main menu (Jenq, col. 6, lines 6-60). It would have been obvious to one skilled in the art at the time of invention to include the menu replacement of Jenq in the radial menu system

of Driskell because it would reduce the amount of screen real estate used by the menu system.

As per claim 18, which is dependent on claim 16, Driskell further teaches the computer program of claim 16; wherein the instructions that receive user input identifying a location comprise instructions that identify the location of a cursor (Driskell, col. 2, lines 66-67; col. 3, line 1).

As per claim 20, which is dependent on claim 16, Driskell further teaches the computer program of claim 16, further comprising instructions that

provide hierarchical levels of menu options (Driskell, Figures 6 and 7; col. 8, lines 22-32), and

wherein the instructions that receive user selection of at least one of the menu options cause display of different menu options at a different hierarchical level (Driskell, Figures 6 and 7; col. 8, lines 22-32).

As per claim 21, which is dependent on claim 20, Driskell further teaches the computer program of claim 20, wherein the menu option located substantially at the identified location comprises a menu option that causes display of menu options at a hierarchical level one level higher than the current level (Driskell, Figures 6 and 7; col. 8, lines 22-34; col. 4, lines 14-24).

As per claim 22, which is dependent on claim 16, Driskell further teaches the computer program of claim 16, further comprising instructions that select menu options to present (Driskell, Figure 7-B: L2-B).



5. Claims 7, 8, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell and Jenq as applied to claims 1-6, 9-14, and 16-22 above, and further in view of Padawer et. al. ("Padawer", US# 5,220,675).

As per claim 7, which is dependent on claim 1, the invention of Driskell and Jenq teaches the method of claim 1, but does not teach the method further comprising enabling a user to select menu options to present. Padawer teaches users having the ability to add, edit, delete, or rearrange menu items (Padawer, col. 4, lines 8-12). These user-edited menus can be viewed by navigating through the menus to the edited menu. It would be obvious to one skilled in the art at the time of invention to incorporate the user-edited menus of Padawer into the menu system of Driskell because, as noted in Padawer, user-edited menus provide a high degree of flexibility as well as provide a method and system for combining features of a wide variety of utilities (Padawer, col. 3, lines 14-15).

As per claim 8, which is dependent on claim 7, the invention of Driskell and Jenq teaches the method of claim 1, but does not teach the method further comprising automatically selecting menu options to present based at least in part on an application context.

Padawer teaches displaying fixed menu commands as well as a menu portion for user defined menu items (Padawer, col. 3, lines 50-60). It would be obvious to one skilled in the art at the time of invention to incorporate the user-edited menus of Padawer into the menu system of Driskell because, as noted in Padawer, user-edited

menus provide a high degree of flexibility as well as provide a method and system for combining features of a wide variety of utilities (Padawer, col. 3, lines 14-15).

Dependent claims 15 and 23 are similar to dependent claim 8, and are therefore rejected under similar rationale.

### ***Response to Arguments***

6. Applicant's arguments with respect to claim 1-11 and 13-23 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam M. Lewis whose telephone number is 703-305-0720. The examiner can normally be reached on M-Th 7:00-4:30, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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